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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

Debtor.

Case No. BK-S-06-10725-LBR

Chapter 11

**USACM Trust's Motion to Clarify the
Record Regarding Proof of Claim
No. 10725-00494 Claim By RNR
Living Trust Dated 10/1/04**

Date of Hearing: March 1,

Time of Hearing: 10:00 a.m.

Estimated Time for Hearing: 10 minutes

The USACM Liquidating Trust (the "USACM Trust") moves to clarify the record regarding certain Direct Lender claims and how these claims are to be treated by the USACM Trust. This Court may correct these errors pursuant to Bankruptcy Rules 3008 and 9024.

RNR Living Trust Dated 10/1/04 filed Proof of Claim No. 10725-00494 (the "RNR POC") in the amount of \$200,000. A copy of the RNR POC is attached as **Exhibit A**. Although the claim amount listed is \$200,000, the documentation supporting the RNR POC indicates that it is based upon only a \$50,000 investment in the Mountain House Business Park Loan and a \$50,000 investment in the BarUSA Loan. No other loans are referenced in the RNR POC or the documents attached to it.

The USACM Trust objected to all Direct Lender claims based upon an investment in the Mountain House Business Park Loan, including the RNR POC [DE 8553]. The

1 Court sustained the Trust's objection and disallowed the RNR POC to the extent it is
2 based upon the Mountain House Business Park Loan [DE 8982]. Consistent with the
3 actual amount of the investment, the "approximate" amount disallowed on the exhibit
4 attached to the Court's order was \$50,000.

5 Likewise, the USACM Trust objected to Direct Lender claims based upon an
6 investment in the BarUSA Loan, including the RNR POC [DE 7354]. The Court
7 sustained the Trust's objection and disallowed the RNR POC to the extent it is based upon
8 the BarUSA Loan [DE 7610]. Consistent with the actual amount of the investment, the
9 "approximate" amount disallowed on the exhibit attached to the Court's order was
10 \$50,000.

11 Thus, although the Trust has objected to claims based upon the two loans upon
12 which the RNR POC is based and the court has disallowed the RNR POC to the extent it
13 is based on those loans, the Trust's records arguably show that \$100,000 of the claim
14 remains unresolved. Accordingly, the Trust requests an order clarifying that the RNR
15 POC is disallowed in full.

16 Wherefore, the USACM Liquidating Trust requests that the foregoing orders be
17 amended as requested.

18 Respectfully submitted February 2, 2012.

19 **LEWIS AND ROCA LLP**

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LEWIS
AND
ROCA
LLP
LAWYERS

COPY of the foregoing mailed
by First Class Postage Prepaid
U.S. Mail on February 2, 2012,
to:

RNR Living Trust Dtd 10/1/04
c/o Robert & Renee Levy Trustees
2115 Bensley St.,
Henderson, NV 89044-0155

LEWIS AND ROCA LLP

By: /s/ Renee L. Creswell
Renee L. Creswell